

### REMARKS

This responds to the Office Action dated January 27, 2006, and the references cited therewith.

Claims 1, 16, and 22 are amended, claims 2, 17, and 23 are canceled; as a result, claims 1, 3-16, 18-22, and 24-26 are now pending in this application.

#### §102 Rejection of the Claims

Claims 1, 2, 4 and 12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Mansfield (U.S. Patent No. 3,683,993). The Applicant respectfully traverses the rejection and requests the Office to consider the following.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), M.P.E.P. §2131, 8<sup>th</sup> Ed., Rev. 4).

Claim 1 has been amended. Claim 1 has the limitation of expanded ultra-high molecular weight polyethylene. Mansfield does not teach or suggest claim 1 as amended. Withdrawal of the rejection is respectfully requested.

Claims 2-15 depend from claim 1 and are therefore also not anticipated. Withdrawal of the rejections is respectfully requested.

Claims 1, 4, 10 and 12-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by Alt (U.S. Patent No. 5,433,730). Applicant respectfully traverses the rejection and requests the Office to consider the following.

Alt does not teach claim 1 as amended. Claim 1 has the limitation of expanded ultra-high molecular weight polyethylene. Withdrawal of the rejections is respectfully requested.

Claims 4, 10, and 12-14 depend from claim 1 and are therefore also not anticipated. Withdrawal of the rejections is respectfully requested.

Claims 1-2, 4, 16-17 and 19-21 were rejected under 35 U.S.C. § 102(b) as being anticipated by Bush (U.S. Patent No. 5,755,762). Applicant respectfully traverses the rejection and requests the Office to consider the following.

Claim 1 has been amended. Claim 1 has the limitation of expanded ultra-high molecular weight polyethylene. Bush does not teach or suggest claim 1 as amended. Withdrawal of the rejection is respectfully requested.

Claims 2 and 4 depend from claim 1 and are therefore also not anticipated. Withdrawal of the rejections is respectfully requested.

Claim 16 has been amended. Claim 16 has the limitation of expanded ultra-high molecular weight polyethylene. Bush does not teach or suggest claim 16 as amended. Withdrawal of the rejection is respectfully requested.

Claims 17 and 19-21 depend from claim 16 and are therefore also not anticipated. Withdrawal of the rejections is respectfully requested.

Claims 1-3, 5-11 and 16-21 were rejected under 35 U.S.C. § 102(e) as being anticipated by Soukop et al. (U.S. Patent No. 6,704,604). Applicant respectfully traverses the rejection and requests the Office to consider the following.

Claim 1 has been amended. Claim 1 has the limitation of expanded ultra-high molecular weight polyethylene. Soukop does not teach or suggest claim 1 as amended. Withdrawal of the rejection is respectfully requested.

Claims 2, 3, and 5-11 depend from claim 1 and are therefore also not anticipated. Withdrawal of the rejections is respectfully requested.

Claim 16 has been amended. Claim 16 has the limitation of expanded ultra-high molecular weight polyethylene. Soukop does not teach or suggest claim 16 as amended. Withdrawal of the rejection is respectfully requested.

Claims 17-21 depend from claim 16 and are therefore also not anticipated. Withdrawal of the rejections is respectfully requested.

§103 Rejection of the Claims

Claims 3, 5-11, 13-14 and 16-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mansfield (U.S. Patent No. 3,683,993) in view of Bush (U.S. Patent No. 5,755,762). Applicant respectfully traverses the rejection and requests the Office to consider the following.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (M.P.E.P. § 2143 8<sup>th</sup> Ed, Rev.4).

The Office Action admits that "Mansfield fails to disclose that the electrode is covered with a porous second covering." (Office Action at page 7). Claims 1 and 16 have the limitation of expanded ultra-high molecular weight polyethylene. Neither Mansfield nor Bush teach claim 1 (from which claims 3, 5-11 and 13-14 depend) or claim 16 as amended. Because all the claim limitations are not taught in the cited references, withdrawal of the rejections is respectfully requested.

Claims 15 and 22-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mansfield (U.S. Patent No. 3,683,993) in view of Czura et al. (U.S. Patent No. 5,562,715). Applicant respectfully traverses the rejection and requests the Office to consider the following.

The Office Action admits that "Mansfield fails to disclose a dielectric coating over the metallic can, and a passageway through the dielectric coating to form an exposed portion of the container." (Office Action at page 9). Claim has the limitation of expanded ultra-high molecular weight polyethylene. Neither Mansfield nor Czura teach claim 1 (from which claim 15 depends)

or claim 22 as amended. Because all the claim limitations are not taught in the cited references, withdrawal of the rejections is respectfully requested.

Claims 24-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mansfield (U.S. Patent No. 3,683,993) in view of Czura et al. (U.S. Patent No. 5,562,715), as applied to claim 22 above, and further in view of Bush (U.S. Patent No. 5,755,762). Applicant respectfully traverses the rejection and requests the Office to consider the following.

The Office Action admits that “Mansfield fails to disclose that the electrode is covered with a porous second covering.” (Office Action at page 11). Claims 1 and 16 have the limitation of expanded ultra-high molecular weight polyethylene. But neither Mansfield Czura nor Bush teach claim 22 (from which claims 24-26 depend) as amended. Because all the claim limitations are not taught in the cited references, withdrawal of the rejections is respectfully requested.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (801) 278-9171 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

DANIEL J. COOKE ET AL.

By their Representatives,

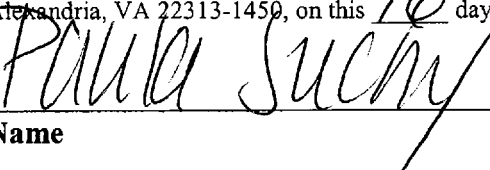
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16 day of June, 2006.

Name



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